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PATENTS, TRADEMARKS  
& COPYRIGHTS

LICENSING AND  
LITIGATION

September 2, 2010

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant: Prosek, Michael E.  
Serial No. 10/696,833  
Filed: October 30, 2006  
For: Adjustable Length Cannula

Docket No. MIT101


Dear Sir/Madam:

Please file the enclosed:

1. Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b);
2. Response To Notice To File Missing Parts of Nonprovisional Application and Preliminary Amendment;
3. Copy of Notice To File Missing Parts of Nonprovisional Application;
4. Statement under 37 CFR 3.73(b) executed by William E. Noonan, Esq., who is authorized to act on behalf of assignee Albert J. Mitchell;
5. A true copy of the Assignment from the applicant Michael Prosek to Albert J. Mitchell;
6. A copy of the Notice of Recordation of the Assignment; and
7. Our check # 8887 in payment of the required petition fee for a small entity (\$810).

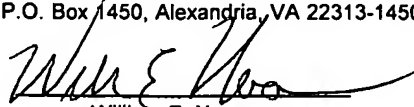
Please acknowledge your receipt of this material by stamping and returning the enclosed post card.

Very truly yours,

  
William E. Noonan  
WEN/pe

CERTIFICATE OF MAILING

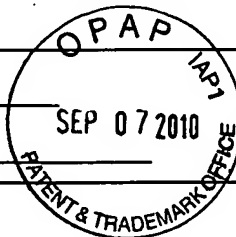
I hereby certify that this correspondence is being deposited with the U.S Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2nd day of September, 2010.

  
William E. Noonan

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
MIT101First named inventor: Michael E. ProsekApplication No.: 10/696,833Filed: 10/30/2003

Art Unit: \_\_\_\_\_

Examiner: \_\_\_\_\_

Title: ADJUSTABLE LENGTH CANNULA

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

**1. Petition Fee**
☒ Small entity-fee \$ 810 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m))
**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Response to Notice to File Missing Parts (identify type of reply):

☐ has been filed previously on \_\_\_\_\_

☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 09/08/2010 JADD01 00000045 10696833

☐ has been paid previously on 01 FC:2453

810.00 OP

☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

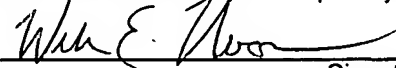
## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

William E. Noonan, Esq.

Type or Printed name

POB 07338

Address

Fort Myers, FL 33919

Address

September 2, 2010

Date

30,668

Registration Number, If applicable

239-481-0900

Telephone Number

Enclosures:

- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other: Statement under 37 CFR 3.73(b)

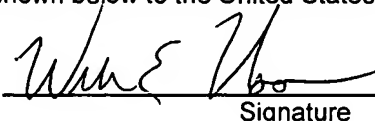
**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

September 2, 2010

Date



Signature

William E. Noonan

Typed or printed name of person signing certificate